

TITLE 278, Nebraska Administrative Code, Chapter 1

Policy Research Office

Rules and Regulations Concerning the Municipal Natural Gas Regulation Revolving Fund

February 8, 1994 amendment

Title 278 – POLICY RESEARCH OFFICE
Chapter 1. Municipal Natural Gas Regulation
Revolving Loan Fund

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First and Last Issue Date: December 1987

Chapter 1 – MUNICIPAL NATURAL GAS REGULATION REVOLVING FUND

001. Definitions

001.01 Applicant shall mean any city of the primary class, city of the first class, city of the second class, or village in Nebraska or, when

the context requires, any combination of the same acting in concert in a properly created rate area.

001.02 Agency shall mean the Policy Research office, Energy Division.

001.03 Customer shall mean any noninterruptible purchaser of natural gas within a municipality with requirements of less than one hundred thousand cubic feet of natural gas per day.

001.04 Date of Filing shall mean the first day of the month following the date the rate filing is received by the office of the clerk of each municipality in the rate area.

001.05 Date of Final Action shall be the date upon which the last municipality in a rate area adopts or fails to adopt a rate ordinance under a rate filing or the one hundred and eightieth day, counted as provided in section 7 of the Municipal Natural Gas Regulation Act, whichever comes first.

001.06 Director shall mean the director of the Energy Division of the Policy Research Office.

002. Use of Loan Proceeds; Restrictions. The Municipal Natural Gas Regulation Revolving Loan Fund shall be used to make loans to applicants for rate area regulation and to pay the costs of administering the area rate hearings. Loan proceeds may only be used for the costs and expenses incurred by an applicant to analyze rate filings, to establish area-wide rates, and to finance litigation of any appeals. Such expenses may include the cost of rate consultants, attorneys, hearing officers, expert witnesses, preparation of transcripts and hearing records, and any other necessary costs directly related to conducting the area rate hearing. Loan proceeds may not be used to defray existing costs such as an applicant's employee salaries and administrative expenses.

003. Loan Criterion and Process. No more than one loan shall be made to each rate area. That loan shall be given to the applicant which represents the largest number of customers in that rate area. Although the agency is making only one loan per rate area, the process is divided into four phases, thereby requiring four separate applications.

004. Determination of Customers in Rate Area. In order to determine whether an applicant represents the largest number of customers in the rate area, the agency shall submit a written request to the utility that it specify the number of customers represented by the applicant and in the total rate area. The utility shall submit a written response to the agency within 15 calendar days after receipt of the request.

005. Loan Application Deadline. The application and budget shall be filed with the agency within 30 calendar days of a utility's date of filing for a change in rates. (The date of filing means the first day of the month

following the date the rate filing is received by the office of the clerk of each municipality in the rate area.)

The agency may approve an application and budget even before the expiration of the filing deadline, if the agency concludes that the applicant represents the largest number of customers in the rate area.

006. Loan Application Phases, Billing Deadlines, and Certification. In order to ensure that the money from the loan fund is available to as many applicants as possible, there are four application and billing phases. Each phase requires a separate application. Each application budget must include only those costs associated with that particular phase. An amended budget may be filed with the agency at any time before the end of a loan application phase. The amended budget shall identify permitted costs which were not anticipated in the original application budget.

006.01 Area of Hearing Phase. This loan phase includes only those costs associated with preparing for or conducting the area rate hearing.

This phase is completed when the last member of the applicant municipalities in a rate area adopts or fails to adopt a rate ordinance under a rate filing or on the one hundred eightieth day, as counted in section 7 of the Municipal Natural Gas Regulation Act, whichever comes first. The agency will bill the utility for the actual costs for this phase within 15 working days of receipt of the applicant's final request for payment.

006.02 District Court Review Phase. If an applicant rejects a rate request, the utility can seek judicial review by the Lancaster County District Court. This loan phase includes only those costs of the applicant associated with such a review.

The agency shall bill the utility for the actual costs of this phase within 15 working days of receipt of the applicant's final request for payment for this phase.

006.03 Court of Appeals Phase. Either an applicant or a utility can appeal the District Court's decision to the Nebraska Court of Appeals. This loan phase includes only those costs of the applicant associated with such an appeal. The agency shall bill the utility for the actual costs of this phase within 15 working days of receipt of the applicant's final request for payment for this phase.

006.04 Supreme Court Appeal Phase. Either an applicant or a utility can appeal the Court of Appeal's decision to the Nebraska Supreme Court. This loan phase includes only those costs of the applicant associated with such an appeal. The agency shall bill the utility for the actual costs of this phase within 15 working days of the receipt of the applicant's final request for payment for this phase.

006.05 Certification and Fund Disbursement.

The director of the agency shall, upon review of the applicant's final payment authorization; certify in writing to the utility that the costs billed were necessary and

appropriate to the applicant's rate-setting activities. The utility shall have 30 calendar days from the date of billing by the agency in which to reimburse the loan fund for the certified costs. This payment by the utility cannot be postponed for the reason that the rate request is appealed to the District Court, the Court of Appeals, or the Supreme Court.

007. Payment of Loan Proceeds. The applicant shall draw on its loan by submitting a payment authorization to the agency within 30 calendar days of having been billed for actual costs. Authorization for payment shall be submitted on the approved form with all required documentation. If the billed expenses are consistent with the submitted budget or amended budget, the agency shall issue payment directly to the applicant's service provider(s). If the billed expenses are not consistent with the submitted budget(s), the agency shall not issue payment and shall notify the applicant of the reason for denying payment.

008. Rejection of Loan Application Budget. The agency shall reject any loan application budget or amended budget which is not directly related to the analysis of rate filings, the establishment of area wide rates, or the financing of litigation costs of any appeals.

009. Review of Denial of Loan Application, Budget, or Payment Authorization. An applicant seeking a review of a decision rejecting or denying an application, budget, or payment authorization must make a request for a review in writing, giving the reasons for reconsideration, to the director of the agency within 15 calendar days of notice of the agency's action. The director shall notify the applicant in writing of a decision within 30 calendar days of receiving the request.

010. Quarterly Report. The director of the agency shall report quarterly within 30 calendar days of the end of the quarter, beginning with the quarter ending on December 31, 1987, on the financial condition of the loan fund. The quarterly report shall consist of a list of total loan amounts and the fund balance at the end of the quarter. The agency shall file a copy of the quarterly report with the Clerk of the Legislature.

011. Waiver. The director may waive any deadline under these regulations for good cause shown by an applicant. The applicant shall make a request in writing, giving reasons for the waiver, to the director of the agency. The director shall notify the applicant of the agency's decision in writing within 15 calendar days of receipt of the request.

Annotation

RULE
278 NAC 1

LEGAL CITATION
Neb. Rev. Stat. Sec 19-4617
(Laws 1987, LB663, Sec.17)